

## 21 C.J.S. Courts § 336

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### Courts

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### X. Clerks of Courts

### C. Powers and Duties

## § 336. Control of court

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**As an officer of the court, a clerk of court is generally subject to the court's control.**

As an officer of the court, a clerk of court is generally subject to the court's control<sup>1</sup> and direction in all things necessary to proper administration of the law during its sessions.<sup>2</sup> If the clerk fails to obey an order of the court, he or she may be guilty of contempt.<sup>3</sup> Even when judge improperly decides that an order should be docketed as a judgment, or tells the clerk that a document is a docketable judgment and should not be docketed as such, the clerk must follow the court's orders.<sup>4</sup>

On the other hand, a court cannot control the actions a clerk takes pursuant to a statute giving the clerk personal authority to exercise discretion according to his or her own judgment.<sup>5</sup> Moreover, a court clerk who disagrees with, or is unable to comply with, the directives of a judge may be able to seek review of the judge's decision.<sup>6</sup>

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### Footnotes

- 1 Nev.—*State ex rel. Harvey v. Second Judicial Dist. Court*, 117 Nev. 754, 32 P.3d 1263 (2001).
- W. Va.—*Rutledge v. Workman*, 175 W. Va. 375, 332 S.E.2d 831 (1985).
- 2 Mich.—*Lapeer County Clerk v. Lapeer Circuit Court*, 469 Mich. 146, 665 N.W.2d 452 (2003).

- 3 Ala.—*Shelley v. Thomas*, 232 Ala. 227, 167 So. 316 (1936).
- Tex.—*Ex parte Hughes*, 759 S.W.2d 118 (Tex. 1988).
- 4 Or.—*Praggastis v. Clackamas County*, 305 Or. 419, 752 P.2d 302 (1988).
- 5 Okla.—*Petuskey v. Cannon*, 1987 OK 74, 742 P.2d 1117 (Okla. 1987).
- 6 Idaho—*Crooks v. Maynard*, 112 Idaho 312, 732 P.2d 281 (1987).

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